

CRIMINAL COMPLAINT

9932 CR 0563

COURT DIVISION

FALL RIVER

NAME, ADDRESS AND ZIP CODE OF DEFENDANT

Scott W. Fink
5 Merritt Ave.
Tiverton, RI 02878

DEFT. DOB AND SEX

6/5/72 M

OFFENSE CODE(S)

605

DATE OF OFFENSE(S)

on or about 01/27/99

PLACE OF OFFENSE(S)

91 Chavenson St. FRM

COMPLAINANT

POLICE DEPARTMENT (if applicable)

John Champagne

Fall River 99-1503

DATE OF COMPLAINT

01/28/99

RETURN DATE AND TIME

Arrest

COUNT-OFFENSE

a. ASSAULT AND BATTERY c265 s13A

did assault and beat Julie Souza, in violation of G.L. c.265, s.13A.

COUNT-OFFENSE

COUNT-OFFENSE

COUNT-OFFENSE

COMPLAINANT

X

SWORN TO BEFORE CLERK-MAGISTRATE/ASST. CLERK

X

ON (DATE)

1/28/99

☐ ADDITIONAL
COUNTS
ATTACHED

FIRST JUSTICE

Antone S. Aguiar, Jr.

COURT ADDRESS

Old Durfee High School

A TRUE
COPY

CLERK-MAGISTRATE/ASST. CLERK

ATTEST: X

ON (DATE)

289 Rock St.

Fall River, MA 02720

DC CR 1 (12/95)

Trial Court of Massachusetts
District Court DepartmentTO ANY JUSTICE OR CLERK-MAGISTRATE
OF THE DISTRICT COURT DEPARTMENT;

The undersigned complainant, on behalf of the
Commonwealth, on oath complains that on the date and at the
location stated herein the defendant did commit the offense(s)
listed below.

TENDER OF PLEA OR ADMISSION WAIVER OF RIGHTS	DOCKET NO. 99-0563	NO. OF COUNTS 1	Trial Court of Massachusetts District Court Department
INSTRUCTIONS: This form must be typed or printed clearly, completed prior to the Pretrial Hearing, signed by both counsel and submitted to the court by the defendant at or before the Pretrial Hearing.		NAME OF DEFENDANT Scott Fink	
		COURT DIVISION Fall River District Court 45 Rock Street Fall River, MA. 02720	

SECTION I TENDER OF PLEA

Defendant in this case hereby tenders the following: ☒ **PLEA OF GUILTY** ☐ **ADMISSION TO FACTS SUFFICIENT FOR A FINDING OF GUILTY** conditioned on the dispositional terms indicated below. *Include all proposed terms (guilty finding, finding of sufficient facts, continued without finding, dismissal, fine, costs, probation period and supervision terms, restitution amount including the identification of the recipient of restitution, and any sentence of incarceration, split sentence or suspended sentence, etc.). Number each count and specify terms for each count separately.*

COUNT NO.	DEFENDANT'S DISPOSITIONAL TERMS (Check "Yes" if Prosecution agrees - Check "No" if Prosecution disagrees)	PROSECUTOR'S RECOMMENDATION (Required if Prosecutor disagrees with terms)
	2 yrs sus for 2 yrs w/ batterer's counseling YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	2 yrs 6 mos sus Bat P Batterers Counseling 2 yrs
	YES <input type="checkbox"/> NO <input type="checkbox"/>	
	YES <input type="checkbox"/> NO <input type="checkbox"/>	
	YES <input type="checkbox"/> NO <input type="checkbox"/>	
	YES <input type="checkbox"/> NO <input type="checkbox"/>	
	YES <input type="checkbox"/> NO <input type="checkbox"/>	
	YES <input type="checkbox"/> NO <input type="checkbox"/>	
	YES <input type="checkbox"/> NO <input type="checkbox"/>	

WE HAVE CONSULTED WITH THE PROBATION DEPARTMENT REGARDING ANY PROBATION TERMS SET FORTH ABOVE

SIGNATURE OF DEFENSE COUNSEL X <i>Brian J. Sifert</i>	DATE 4/28/99	SIGNATURE OF PROSECUTING OFFICER <i>[Signature]</i>	DATE 4/28/99
---	------------------------	--	------------------------

SECTION II PLEA OR ADMISSION ACCEPTED BY THE COURT

The Court ☒ **ACCEPTS** the tendered Plea or Admission on defendant's terms set forth in Section I, and will impose sentence in accordance with said terms, subject to submission of defendant's written WAIVER (see Section IV on reverse of this form), completion of the required oral COLLOQUY, a determination that there is a FACTUAL BASIS for the Plea or Admission, and notice of ALIEN RIGHTS.

SECTION III PLEA OR ADMISSION REJECTED BY THE COURT

The Court ☐ **REJECTS** the defendant's dispositional terms set forth above and, in accordance with Mass. R. Crim. P. 12(c)(6), has set forth to the defendant the dispositional terms it would find acceptable, to wit:

DEFENDANT'S DECISION IF COURT REJECTS TENDERED PLEA OR ADMISSION:

☐ Defendant **WITHDRAWS** the tendered Plea or Admission; the parties must complete and file a Pretrial Conference Report; a Pretrial Hearing must be conducted and a trial date scheduled, if necessary.

☐ Defendant **ACCEPTS** terms set forth by the Court; a Plea or Admission will be accepted by the court and said dispositional terms imposed, subject to submission of defendant's written WAIVER (see Section IV on reverse of this form), completion of the required oral COLLOQUY, a determination that there is a FACTUAL BASIS for the Plea or Admission, and notice of ALIEN RIGHTS.

SIGNATURE OF JUDGE ACCEPTING OR REJECTING PLEA OR ADMISSION X <i>Antonio Aguilar Jr</i>	DATE 4/28/99	SIGNATURE OF DEFENSE COUNSEL (if rejection decision made) X	DATE
---	------------------------	---	------

DC-CR 22 (8/96)

SECTION IV DEFENDANT'S WAIVER OF RIGHTS (G.L.c. 263, § 6) & ALIEN RIGHTS NOTICE (G.L.c. 278, § 29D)

I, the undersigned defendant, understand and acknowledge that I am voluntarily giving up the right to be tried by a jury or a judge without a jury on these charges.

I have discussed my constitutional and other rights with my attorney. I understand that the jury would consist of six jurors chosen at random from the community, and that I could participate in selecting those jurors, who would determine unanimously whether I was guilty or not guilty. I understand that by entering my plea of guilty or admission, I will also be giving up my right to confront, cross-examine, and compel the attendance of witnesses; to present evidence in my defense; to remain silent and refuse to testify or provide evidence against myself by asserting my privilege against self-incrimination, all with the assistance of my defense attorney; and to be presumed innocent until proven guilty by the prosecution beyond a reasonable doubt.

I am aware of the nature and elements of the charge or charges to which I am entering my guilty plea or admission. I am also aware of the nature and range of the possible sentence or sentences.

My guilty plea or admission is not the result of force or threats. It is not the result of assurances or promises, other than any agreed-upon recommendation by the prosecution, as set forth in Section I of this form. I have decided to plead guilty, or admit to sufficient facts, voluntarily and freely.

I am not now under the influence of any drug, medication, liquor or other substance that would impair my ability to fully understand the constitutional and statutory rights that I am waiving when I plead guilty, or admit to sufficient facts to support a finding of guilty.

I understand that if I am not a citizen of the United States, conviction of this offense may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization, pursuant to the laws of the United States.

SIGNATURE OF DEFENDANT

DATE

X *[Signature]*

4/28/99

SECTION V DEFENSE COUNSEL'S CERTIFICATE (G.L.c. 218, § 26A)

As required by G.L.c. 218, § 26A, I certify that as legal counsel to the defendant in this case, I have explained to the defendant the above-stated provisions of law regarding the defendant's waiver of jury trial and other rights so as to enable the defendant to tender his or her plea of guilty or admission knowingly, intelligently and voluntarily.

SIGNATURE OF DEFENSE COUNSEL

B.B.Q. NO.

DATE

X *[Signature]*

867925

9/28/99

SECTION VI JUDGE'S CERTIFICATION

I, the undersigned Justice of the District Court, addressed the defendant directly in open court. I made appropriate inquiry into the education and background of the defendant and am satisfied that he or she fully understands all of his or her rights as set forth in Section IV of this form, and that he or she is not under the influence of any drug, medication, liquor or other substance that would impair his or her ability to fully understand those rights. I find, after an oral colloquy with the defendant, that the defendant has knowingly, intelligently and voluntarily waived all of his or her rights as explained during these proceedings and as set forth in this form.

After a hearing, I have found a factual basis for the charge(s) to which the defendant is pleading guilty or admitting and I have found that the facts as related by the prosecution and admitted by the defendant would support a conviction on the charges to which the plea or admission is made.

I further certify that the defendant was informed and advised that if he or she is not a citizen of the United States, a conviction of the offense with which he or she was charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization, pursuant to the laws of the United States.

SIGNATURE OF JUDGE

DATE

X *[Signature]*

4/28/99

JOURNAL NUMBER

9932 CR 0563

ATTORNEY NAME

13 SYLVIA 14 14

JURY OF SIX

HJ

SCHEDULING HISTORY								
NO.	SCHEDULED DATE	SCHEDULED EVENT	RESULT	JUDGE	TAPE NO.	START	STOP	
1	2/25/99	H KB	WARR: Conf'd DUFFEY					
2	3/1/99	H	<input type="checkbox"/> Hold <input type="checkbox"/> Conf'd					
3	4/28/99	ST	<input type="checkbox"/> Held <input type="checkbox"/> Conf'd					
4	6/22/99	PJ	<input type="checkbox"/> Held <input type="checkbox"/> Conf'd					
5			<input type="checkbox"/> Held <input type="checkbox"/> Conf'd					
6	9/20/99	MAY BE BAILED FOR AN AMOUNT NOT TO EXCEED \$1000 PER ORDER OF COURT. JOHN H. O'NEIL 1st JUSTICE		WMS ISSUED				
7								
8	12-3-99	ST	<input type="checkbox"/> Held <input type="checkbox"/> Conf'd					
9	11-21-05		<input type="checkbox"/> Held <input type="checkbox"/> Conf'd					
10	12/12/05	Status	<input type="checkbox"/> Held <input type="checkbox"/> Conf'd					

ARR=Arraignment PT= Pretrial hearing CE = Discovery compliance & jury election T= Bench trial J = Jury trial PC = Probable cause hearing M = Motion hearing SR = Status review
 SRP = Status review of payments PA = First appearance in jury session S = Sentencing CW = Continuance-without-finding scheduled to terminate P = Probation scheduled to terminate
 DFTA = Defendant failed to appear & was defaulted WAR = Warrant issued WARD = Default warrant issued WR = Warrant or default warrant recalled PR = Probation revocation hearing

ENTRY DATE	OTHER DOCKET ENTRIES
11-1-99	WMS Recalled Arrest CE
NOV -2 1999	Sua notice served in hand.
DEC 3 - 99	HEARING CANCELED THE TERMS & CONDITIONS OF PROBATION (Leonard, A)
	G - 2 YRS QCIC COMMUTED
	NM CONC w/ 99-6726 ALL FEES RMTD
NOV 9 2005	
NOV 10 2005	Ordered: Transportation of Dtg B & H, Na dead.
12-8-05	D's motion to withdraw guilty plea - ordered (Indecent)

ADDITIONAL ASSESSMENTS IMPOSED OR WAIVED				
DATE IMPOSED & JUDGE	TYPE OF ASSESSMENT	AMOUNT	DUE DATES & COMMENTS	WAIVED
JAN 28	Legal Counsel Fee (211D §2A §2)	100	DEC 3 - RMTD	
	Legal Counsel Contribution (211D §2)			
	Court Costs (280 §6)			
	Drug Analysis Fee (280 §6B)			
	OUI §24D Fee (90 §24D §9)			
	OUI Head Injury Surfine (90 §24[1][a][1] §12)			
APR 28 1999	Probation Supervision Fee (276 §87A)	45.00	DEC 3 - RMTD	
	Default Warrant Assessment Fee (276 §30 §2)			
	Default Warrant Removal Fee (276 §30 §1)			